Case and Comment
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Madison and the Constitution*

BY ARTHUR DEERIN CALL

TO JAMES MADISON is largely due the success of the Federal Convention of 1787. The convention had been called for the second Monday of May, 1787. Not until 11 days later, the 25th, did a quorum of the delegates make a session possible. On the third day of the conference, May 29, Mr. Edmund Randolph, of Virginia, submitted a plan for the organization of the Government. This plan was the only plan discussed throughout the convention. Our Constitution grew directly out of it. The man who first outlined the plan was James Madison, who in a letter to Edmund Randolph, under date of April 8, 1787, set forth his ideas of what the new Government should be.

Mr. Madison's place in the convention is familiar to everyone who has given any attention to that great event. Only two men addressed the conference oftener than Mr. Madison—Gouverneur Morris and James Wilson. It became more and more clear as the convention proceeded "that the first man of the assemblage was James Madison." William Pierce, a delegate from Georgia, kept some notes of his impressions of the convention. In one of these notes he wrote:

"Mr. Madison is a character who has long been in public life; but, what is very remarkable, every person seems to acknowledge his greatness. He blends together the profound politician with the scholar. In the management of

* Extracts from Address on "Needed a Worthy Memorial to James Madison." Reprinted from Advocate of Peace Through Justice, April 1926.

every great question he evidently took the lead in the convention, and though he cannot be called an orator, he is a most agreeable, eloquent, and convincing speaker. From a spirit of industry and application which he possesses in a most eminent degree he always comes forward the best-informed man of any point in debate. The affairs of the United States he perhaps has the most correct knowledge of of any man in the Union. He has been twice a Member of Congress and was always thought one of the ablest Members that ever sat in that council. Mr. Madison is about 37 years of age, a gentleman of great modesty, with a remarkably sweet temper. He is easy and unreserved among his acquaintances and has a most agreeable style of conversation."

This man Madison, later to be characterized by John Fiske as a political philosopher "worthy to rank with Montesquieu and Locke," was literally the center of the conference, for he chose a seat directly in front of George Washington, the presiding officer, with the other members on his right and left. He chose this place because, having had experience as reporter of the Continental Congress, he had set for himself the task of reporter of this convention. He was not absent a single day, nor more than a fraction of an hour in any day. He did not lose a "single speech, unless a very short one." In the midst of this remarkable labor he found time to write to Jefferson, "I have taken lengthy notes of everything that has yet passed, and mean to go on with the drudgery, if no indisposition obliges me to discontinue it." It was given to Mr. Jefferson to read Madison's notes years after. Under date of August 10, 1815, he wrote to John Adams:

"Do you know that there exists in manuscript the ablest work of this kind ever yet executed, of the debates of the Constitutional Convention of Philadelphia in 1787? The whole of everything said and done there was taken down by Mr. Madison, with a labor and exactness beyond comprehension."

On reading the remarks of Madison throughout those laborious days, one learns to appreciate not only the faithful attention to detail, but the large statesmanship of the man. "The people were in fact the fountain of all power, and by resort to them all difficulties were gotten over," he argued. It is in that spirit that he defended the plan of submitting the Constitution, the result of their handiwork, not to the legislature for ratification, but to conventions of delegates specially elected by the people. . . .

There can be no doubt of Mr. Madison's influence upon the success of the Federal Convention. One must agree with Bowers, that "no one in either branch of Congress or at the head of any of the departments had approached his services in the framing of the Constitution."

Neither can there be any doubt of Mr. Madison's influence in getting the new Constitution acceptable to the States. He returned to the Congress in New York in November, 1787, led in overcoming opposition there to the Constitution, interested himself in the Rev-

enue Bill, and introduced resolutions to establish three executive departments of the government—a Department of Foreign Affairs, a Treasury Department, and a War Department.

In the first session of the first Congress, June 8, 1789, Mr. Madison moved the consideration of certain amendments to the Constitution. By these amendments he hoped to disarm the opposition to the Constitution, particularly in Rhode Island and North Carolina, not to mention his own State of Virginia. After consideration in committee and adoption by the Senate and House, twelve amendments were forwarded by the President to the States. Of these twelve amendments, all but the first two were adopted by the States and declared in force December 15, 1791. They satisfied the general demand for a "Bill of Rights" and helped immeasurably toward making the new Constitution palatable to the States.

There remain two other reasons for crediting Mr. Madison with the ratifications of the Constitution. Of the eighty-five papers making up the *Federalist*, it is reasonably certain that John Jay wrote 5, Alexander Hamilton 51, and James Madison 29. There is not time here to add more than to say that Mr. Madison's papers are in no sense inferior to those of his collaborators. He enjoyed the work. He would have written more had he not been called back to his State to aid there in the ratification of the Constitution. This leads to the other fact, that the ratification of the Constitution by Virginia, tenth thus to ratify, definitely settled the question of the acceptance of the Constitution by the Union. This achievement, too, was due primarily to the statesmanship of James Madison.

James Madison's title as "the greatest constructive statesman our country has produced" can therefore be briefly summarized. The cause of religious freedom in Virginia, afterward extended in other States, was very appreciably advanced by James Madison. The call of the Federal Convention of 1787 can be definitely traced to the act of the Virginia Assembly in 1784, affecting trade on the Potomac river—an act introduced by James Madison; to the meeting of the commissioners in Alexandria and Mount Vernon in 1785, upon the initiative of James Madison; to the invitation to the Thirteen States for a meeting of delegates at Annapolis in 1786, promoted by James Madison; to the call for a convention of delegates to meet in Philadelphia in 1787, and to the approval of such a convention by the Congress, both because of the influence of James Madison. The success of that Federal Convention depended largely upon the plan, serving as a basis for the discussions of the convention, origi-

nally drafted by James Madison; upon the theory of the non-coercion of States, stood for by James Madison; upon the first ten amendments, known as the Bill of Rights, drawn and successfully pleaded for by James Madison; upon the twenty-nine papers in the *Federalist* written by James Madison; upon the ratification of the Constitution by the State of Virginia because of the victory over such men as Patrick Henry, powerful George Mason, James Monroe, Benjamin Harrison, and other Virginia giants of that day, by James Madison.

In his work *"Jefferson and Hamilton,"* Claude G. Bowers says of Madison: "There was not a man in America who was his peer in the knowledge of constitutional law or history." After Madison's first great speech in the Virginia Convention, June 6, 1788, John Marshall, who had listened to him, said in after years: "If convincing is eloquence, he was the most eloquent man I ever heard." Fisher Ames, jealous opponent of Madison, confessed him to be "our first man." In his book, "James Madison's Notes and a Society of Nations," Doctor James Brown Scott, after reminding us that "the Constitution of the more perfect Union has succeeded," suggests that if different States and kingdoms should be inclined to substitute the regulated interdependence of States for their unregulated independence, "they need only turn for light and leading to the little man of Montpelier, who has preserved for all time an exact account of what took place in the conference of States in Philadelphia in the summer of 1787. Although the 'drudgery' of the undertaking 'almost killed him,' it is fortunately a fact that, 'by an authentic exhibition of the objects, the opinions and the reasonings from which the new system of government was to receive its peculiar structure and organization,' we are now aware, as Mr. Madison then was, 'of the value of such a contribution to the fund of materials for the history of the Constitution, on which would be staked the happiness of a young people, great even in its infancy, and possibly the cause of liberty throughout the world.' "

In other words, James Madison is entitled to our special consideration, not because of any number of ordinary services to this Government, not because of the judgment of his contemporaries, but because he initiated the Federal convention of 1787, saved the convention, and, more than any other man, got our Constitution accepted at last by all of the States. No one has ever questioned James Madison's title as "Father of the Constitution."

The Shorthand Reporter

BY ELSIE A. CANNON

Official Reporter of the U. S. District Court for the Western District of Virginia

RADIO broadcasting, the art of scattering to the four winds the thoughts and ideas of the speaker, is the newest wonder of the age. Shorthand reporting, the art of photographing the human voice and reducing flying words into print, is older than the Christian era. Sixty-three years before Christ was born, Tiro, a slave, took down a speech delivered by Cato and later upon obtaining his freedom became private secretary to Cicero.

With the decline of the Roman Empire, followed by the dark ages, shorthand became a lost art. It was not revived until nearly a thousand years later when John of Tilbury, a monk, in 1180 invented a system for the English language. Shorthand, in various systems, came into general use, the entire Bible was published in shorthand, Pepys's diary was written in shorthand. Shakespeare used it in the writing of his plays, and Charles Dickens in David Copperfield refers to his efforts to learn it as "about equal to the mastery of six languages." Court reporters were officially recognized in England and the celebrated trial of Warren Hastings in 1788 was reported by Joseph Gurney, then the official shorthand writer to the English Government.

For the past one hundred yèars the greater part of the expert shorthand work of the world has been written in Pitman shorthand, a system written almost entirely by sound. All the official reporters on the floor of the Senate and the House of Representatives are Pitmanic writers, and 90 per cent of the reporters of the National Shorthand Reporters' Association, whose membership report events of world renown, such as the Paris Peace conferences, the League of Nations, the Loeb-Leopold trial, Democratic and Republican national conventions, the Teapot Dome investigation and the Disarmament Conference in Washington.

The reporting profession holds a lofty position in the modern world, is rendering a real service in the perpetuation of the leading thoughts of to-day, and we may well be proud of membership in it. The dignity of our work needs to be impressed upon men of other professions, that we serve not alone for money, but as a means of making our contribution to society.

Your Courts Have Made R. C. L. Part of Your Local Law

Shorthand reporting is a learned profession, the same as law, medicine, teaching and engineering. It requires the highest degree of intelligence, accuracy, mental and physical skill, and years of special study and preparation. We all desire to gain distinction in our work and the effort for perfection, of course, leads us to distinction. In order to maintain a high standard of excellence, it is the plan of the National Shorthand Reporters to establish a college chair in shorthand reporting and to confer a degree upon completion of a four-year course.

The court reporter is a sworn officer of the court and plays an important part in the administration of justice. The reporter's record in the lower court becomes more important than the questions of counsel or the rulings of the court: errors of the court can always be corrected, but when the record is wrong, the case is spoiled forever. The reporter is the guardian of justice in the appellate and supreme courts; the record is the foundation of the whole procedure.

The reporter is the lawyer's ever present comfort and friend; he has absolute faith in our ability, our integrity and skill; life, liberty and happiness are entrusted to our hands; the record is a matter of honor and pride which the real lawyer recognizes with a genuine thrill. Every word has been faithfully recorded, without fear or favor, at the average rate of 150 to 200 words per minute, hour after hour, without rest, with constant alertness and intense mental concentration. The average court session consists of about 50,000 words, and if the trial lasts several days will cover miles of shorthand, and often to transcribe it becomes a task as laborious as paving the highway.

Yet our work is intensely interesting. We meet the successes and the failures in life, those who do right and those who do wrong. It is an opportunity to study character, for in a man's judgment of his neighbor's motives, we see the mirror of his own character. It has been said that the court room is the great theater of life, where things are as they are, and not what they seem to be, and the actors play a real part in the drama.

To one who has mastered the art and science of shorthand it is a passport that will take him around the world; opportunity is unlimited; he has a "fortune in his hands." As Thomas Carlyle once said, "Not what I have, but what I do, is my kingdom."

—From the Roanoke National News of December 15, 1925.

Your Courts Have Made R. C. L. Part of Your Local Law

The Crusading Spirit—Mabel Walker Willebrandt

BY O. R. McGUIRE

THE CAREER of Mabel Walker Willebrandt, assistant attorney general of the United States, proves her to be a spiritual sister to the indomitable crusaders of other years—men who blazoned the cross on their shields and defied both the swords of the Saracens and the burning sands of Asia Minor to deter them from the gates of Jerusalem. In both cases, the spirit marched forward to its ideal even though the path led through a veritable Slough of Despond.

Uncle Sam's chief crusader in the enforcement of the Prohibition Law was born in a typical frontier cabin of the Southwest in what is now the Panhandle of Texas, and in 1921, thirty-two years thereafter, her determination and energy had carried her to the responsible position she now holds. A mere statement of the termini of the thirty-two-year journey is sufficient to demonstrate that the traveler is a woman of unusual talents.

Her parents left the Texas Panhandle, residing subsequently at points in Missouri and Oklahoma. Her father devoted his time to editing country newspapers and to farming, and her mother taught school.

During the first thirteen years of Mrs. Willebrandt's life, she received little formal schooling and was permitted to amuse herself with such desultory reading of books and newspapers as chanced her way. With a view to enabling her to receive systematic instruction her parents removed to Kansas City. So assiduously did she apply herself that within four years she had acquired sufficient formal training to enable her to secure a teacher's certificate.

In the meantime, her parents had again moved on; this time to Buckley, Michigan, and the daughter followed. Here she secured employment as a teacher. Even at this early age, she was not lacking in courage for when a boy became unruly and attacked her with his knife, she threshed him soundly. It was in this town of lumbermen that romance came into her life and she became engaged to the principal of the school. Mr. Willebrandt suffered an attack of pneumonia and was menaced by tuberculosis. She married him and took him to the high and dry climate of Arizona in an attempt to restore

his health. She nursed her husband, taught school, and studied at the State Normal in Tempe, Arizona, graduating in 1911. Losing in the attempt to restore her husband's health, she returned to Michigan and secured a position as a teacher in the schools of Big Rapids, studying during the summer months at the Ferris Institute and completing a year's work in five months.

The inheritance of the pioneer spirit asserted itself and Mrs. Willebrandt joined the ever increasing throng headed for Los Angeles, California. Securing a position as a teacher in the public schools of that city, she enrolled in the Law School of the University of Southern California and attended its late afternoon classes. The law school was then located down-town near the Federal building, the county courthouse, and in a section populated by Mexicans, but in order to be near the school and to save time in going to and from lectures, she secured a room in this section.

Portrait loaned by Frank Knoblock, Washington, D. C.

MRS. WILLEBRANDT

She came to observe these poor foreigners rather closely and her heart went out to them when she saw the results of their experiences with the law. Unscrupulous lawyers did not hesitate to prey on their ignorance and Mrs. Willebrandt became interested in establishing the position of public defender to whom these people could go for advice and assistance in their troubles with the law. When the position was created she was requested to take over so much of the work as related to the women. However, she was then teaching school, attending law school, and her time was almost entirely occupied, but the school board made sufficient adjustments to permit her to comply with the request and for seven long years she was a student, teacher, and adviser to more than two thousand foreign women charged with various delinquencies. Finally she graduated from law school, was admitted to the bar, and commenced to practise her new profession; lucrative business being somewhat slow in coming to a woman lawyer, she continued to teach during the first year of her practice.

About this time the United States entered the World War and she became a member of the draft advisory board. She also took

(*Continued on Page 96*)

Among the New Decisions

Abatement — *survival of action for damages under the Sherman Anti-trust Act.* The cause of action given one by the Sherman Anti-trust Act for injury to his business by acts done in violation of the statute is held to survive the death of the defendant in Sullivan v. Associated Billposters & Distributors, 6 F. (2d) 1000, annotated in 42 A.L.R. 503, and the action may be revived against his executors.

Adverse possession — *against right of dower.* Where a widow is entitled to dower in any lands of which her husband was beneficially seised during coverture, it is held that there can be no adverse possession against the right of dower while the coverture lasts in Rook v. Horton, 190 N. C. 180, 129 S. E. 450, which is accompanied in 41 A.L.R. 1111, by annotation on dower as affected by adverse possession.

Arbitration — *pending suit — effect.* That a court cannot confirm or enter judgment upon an award upon an arbitration agreement made while an action involving its subject-matter is pending in court against one who refuses to abide by it, is held in the Massachusetts case of Magaziner v. Consumers' Baking Co. 149 N. E. 547, annotated in 42 A.L.R. 725.

Carriers — *negligence of Pullman Company in failing to perform imposed duty.* Failure of the Pullman Company to perform a duty with respect to platform doors imposed upon it by the railroad company is held to render it liable for injuries thereby inflicted upon a passenger whom both companies have undertaken to carry in Pullman Co. v. Waln, 4 F. (2d) 1, which is followed in 41 A.L.R. 1393, by annotation on liability for personal injury to passenger in a Pullman car.

Contracts — *modification without additional consideration.* A contract to pay commissions to a broker for a sale of real estate, it is held in Moore v. Williamson, 213 Ala. 274, 104 So. 645, annotated in 42 A.L.R. 981, may be modified before breach, by mutual agreement that the commissions shall not be paid unless the sale is consummated, without the necessity of further consideration.

Courts — *action for trespass upon land.* That an action for trespass upon lands is a local action, and can only be brought within the state in which the land lies, is held in Taylor v. Sommers Bros. Match Co. 35 Idaho, 30, 204 Pac. 472, which is followed in 42 A.L.R. 189, by annotation on jurisdiction of action at law for damages

for tort concerning real property in another state or country.

Courts — *criminal liability — one not in state.* The actual presence of a defendant within the state at the time of the commission of a crime with which he is charged, is held not to be a prerequisite in fixing his criminal responsibility therefor, in State v. Wolkow, 110 Kan. 722, 205 Pac. 639, which is accompanied in 42 A.L.R. 265, by annotation on absence from state at time of offense, as affecting jurisdiction of offense.

Covenants — *active — running with land.* That an affirmative covenant requiring active performance by the covenantor may run with the land of the covenantor, is held in Murphy v. Kerr, 5 F. (2d) 908, annotated in 41 A.L.R. 1359.

Damages — *loss of profits — speculative evidence.* Loss of profits on anticipated sales by a salesman of ladies' suits in a certain city, because of failure to deliver to him a package of models during his stay in the place, is held not to be recoverable from the express company in American R. Exp. Co. v. Steinberg, 208 Ky. 251, 270 S. W. 765, where there is no evidence from which to determine possible sales except the results of prior and subsequent visits to that territory.

The liability of a carrier for loss of profits due to failure to deliver or delay in delivering goods to salesman is considered in the annotation appended to this case in 42 A.L.R. 705.

Descent and distribution — *adoption — death of adopting parent.* Where, after an adopting parent has died, the adopted child dies without heirs of his body, his relations by blood are held to be entitled in the New Mexico case of Dodsen v. Ward, 240 Pac. 991, to take under the statutory laws of descent and distribution in preference to the father of the adopting parent, in the absence of specific legislative declaration to the contrary in the adoption statute.

Annotation on descent and distribution of the property of an adopted child accompanies this case in 42 A.L.R. 521.

Evidence — *automobile — collision — liability of owner.* In an action against the owner of an automobile for damages resulting from an automobile collision occasioned by the negligent operation of the trespassing car by another than the owner, proof of ownership is held not to make a prima facie case of liability, or raise a presumption of liability, on the part of the owner in Tice v. Crowder, 119 Kan. 494, 240 Pac. 964, annotated in 42 A.L.R. 893. Plaintiff must offer evidence that the driver was acting in some capacity for the owner, and within the scope of the employment.

Evidence — *cause of loss under theft insurance policy.* Under a policy insuring against loss by burglary, larceny, or theft, it is held in Fidelity & C. Co. v. Wathen, 205 Ky. 511, 266 S. W. 4, that proof that the loss was the result of burglary or larceny or theft is not necessary if facts are shown which warrant the inference that the loss was due to one or the other of those causes, where insured does not specify the method of loss in his pleadings.

Annotation on burglary, larceny, theft or robbery within a policy of insurance is appended to the foregoing case in 41 A.L.R. 844.

Extradition — *surrender of prisoner under indictment.* That the governor of an asylum state may relinquish a prisoner under indictment in the courts of such state for trial upon a charge in another state in extradition proceedings is held in People v. Klinger, 319 Ill. 275, 149 N. E. 799, annotated in 42 A.L.R. 581.

Fire — *liability for spread.* As a general rule, where an accidental fire starts on one's premises, it is held in Orander v. Stafford, 98 W. Va. 499, 127 S. E. 330, that he is not liable

for the damage thereby to his neighbor, unless it started through his negligence, or he failed to use ordinary care and skill to extinguish it, or failed to provide adequate means for doing so.

The liability of one on whose property accidental fire originates for damages from the spread thereof is treated in the annotation which follows this case in 42 A.L.R. 780.

Garnishment — *of bank checks — effect of statute.* Where the statute authorizing delivery of property by garnishee specifies choses in action, the drawee which is in possession of a check and refuses to deliver it under a garnishment proceeding, but permits it to go into possession of the payee so that the proceeds are lost to the attaching creditor, is held in Great Western Finance Co. v. Hamilton Nat. Bank, 76 Colo. 48, 230 Pac. 115, to be liable for the amount, although the property described in the statute as subject to garnishment does not include things in action.

The question of note or check itself as subject of levy and seizure under attachment or garnishment, is considered in the annotation appended to this case in 41 A.L.R. 997.

Guaranty — *effect of death of guarantor.* The decease of the guarantor in a divisible contract of indemnity is held to revoke the obligation as to advances thereafter made, at least where the guarantee is made aware of the changed circumstances, in Re Lorch, 284 Pa. 500, 131 Atl. 381, annotated in 42 A.L.R. 922, on guarantor's death as terminating guaranty.

Highways — *innkeeper — necessity of knowledge and failure to act.* An innkeeper is held in Wolk v. Pittsburgh Hotels Co. 284 Pa. 545, 131 Atl. 537, annotated in 42 A.L.R. 1081, not to be liable for injury caused by the placing of things on the window sill by a transient guest, and their falling into the street, unless he knows or should have known of such act, and fails to take immediate steps to remove the danger.

Highways — *obstructing view — liability.* An owner of land adjoining crossing highways, along which high hedges are permitted to grow so as to obstruct the view of those who at right angles approach the corner of the land at the intersection of the highways, is held not to be liable in damages to those who are injured in an automobile collision on the crossing of the highways in Bohm v. Racette, 118 Kan. 670, 236 Pac. 811, annotated in 42 A.L.R. 571.

Husband and wife — *replevin — right of husband to sue wife.* That either spouse may prosecute an action of replevin against the other where the statute preserves the separate right of the wife to her property, and gives her power to contract and sue and be sued separately as fully as if unmarried, is held in Notes v. Snyder, 55 App. D. C. 233, 4 F. (2d) 426, annotated in 41 A.L.R. 1052.

Landlord and tenant — *lease for sale of liquor — validity.* That a lease of property to be used for the illegal sale of intoxicating liquor is void and will not sustain an action for rent is held in Musco v. Torello, 102 Conn. 346, 128 Atl. 645, annotated in 42 A.L.R. 1032.

Lost property — *cotton carried away by flood.* Cotton stored on the compress platform, near a river, which is carried away by an unprecedented flood and deposited a mile and one-half below the compress, said cotton being marked and easily identified, and pursued by the owners and insurers thereof, is held in Mitchell v. Oklahoma Cotton Growers' Asso. 108 Okla. 200, 235 Pac. 597, under the law, not to be lost property; of cotton so deposited on the premises of a riparian owner, the owner of said premises becomes the involuntary bailee.

This case is annotated in 41 A.L.R. 1011, on rights and remedies as to chattels cast upon riparian land.

Lost property — *oil and gas — right to recover oil escaping from pipe line.* The owner of oil which escapes from his pipe line and flows on to adjoining property is held entitled to recover it as against the claim of the owner of the property on to which it flows in the Arkansas case of Crosson v. Lion Oil & Ref. Co. 275 S. W. 899, which is followed in 42 A.L.R. 574, by annotation on rights as to oil escaping from well, tank or pipe line.

Mortgage — *on land in two states — effect of foreclosure in one.* Where mortgages are given upon parcels of land situated in different states to secure the same notes, foreclosure of the mortgage upon the land in one state is held not to release the land in the other state from liability for any deficiency in the judgment for which it was originally liable in Widmann v. Hammack, 110 Wash. 77, 187 Pac. 1091, which is annotated in 42 A.L.R. 468, on remedies in respect of mortgage on real property in another state or the debt secured thereby.

Negligence — *unsafe premises — absence of handrails.* That the absence of handrails from an ordinary interior stairway, walled on both sides, is not actionable negligence, is held in the Minnesota case of Wallimaa v. Makie, 204 N. W. 25, annotated in 41 A.L.R. 965, on liability of innkeeper for injury to guest using stairway.

Negligence — *wanton — defense.* Wilful and wanton negligence by plaintiff is held to be a defense to an action for plaintiff's injuries caused by the wilful and wanton negligence of the defendant in the Minnesota case of Hinkle v. Minneapolis, A. & C. Range R. Co. 202 N. W. 340, annotated in 41 A.L.R. 1377.

Parent and child — *injury to child — defense to action by parent.* The parent of an injured child is held in the Wisconsin case of Callies v. Reliance Laundry Co. 206 N. W. 198, to take his right of action for loss of services and expenses of medical attention subject to any defense that could be urged against the child, in whom the whole cause of action, but for the law, would vest.

The basis of the rule that contributory negligence of the person injured precludes a recovery by parent or spouse, is the subject of the annotation which accompanies this case in 42 A.L.R. 712.

Parent and child — *liability for medical services rendered adult daughter.* A father is held not to be liable in Breuer v. Dowden, 207 Ky. 12, 268 S. W. 541, for medical services rendered without his knowledge to his adult daughter, who is a member of his family, if at the time of her reaching her majority she was physically and mentally capable of earning her own living, although she subsequently became incompetent to do so.

The annotation which accompanies this case in 42 A.L.R. 146, deals with the liability of a parent for necessaries furnished to an adult child.

Public lands — *mortgage of homestead entry.* A mortgage given in good faith, by one who has made homestead entry on the public lands of the United States, prior to the issuance of his final receipt or patent, is held to be valid as between the parties to the mortgage, after the patent has been issued, in the Idaho case of Bashore v. Adolf, 238 Pac. 534, annotated in 41 A.L.R. 932.

Schools — *punishment of pupil for acts committed at home.* That a teacher may punish a pupil for acts committed after he has returned to the parental abode, if they are detrimental to the morale of the school and to the welfare and advancement of the pupils therein, is held in O'Rourke v. Walker, 102 Conn. 130, 128 Atl. 25, annotated in 41 A.L.R. 1308, on right to discipline pupil for conduct away from school grounds.

Succession taxes — *foreign-held bonds of local corporation.* Bonds of

a local railroad company which are held by a resident of a foreign country at the place of his residence and are secured on land located within and without the state are held not to be subjected to a succession tax by a statute imposing such tax upon all property within the jurisdiction of the state, whether belonging to the inhabitants of the state or not, which passes by will or laws of inheritance, in the Utah case of McLaughlin v. Cluff, 240 Pac. 161, annotated in 42 A.L.R. 347, on succession tax at domicil of debtor or corporation as to credits or corporate stock belonging to the estate of a nonresident.

Succession taxes — *foreign-owned bonds.* Liberty bonds, bonds of municipalities of other states, and stocks and bonds of corporations organized under the laws of other states, owned by a nonresident decedent and deposited for safe-keeping in this state, are held in Cassidy v. Ellerhorst, 110 Ohio St. 535, 144 N. E. 252, not to be subject to Ohio inheritance tax laws, under § 5331, General Code, unless such securities are employed in commercial transactions within the state at the time of the death of such decedent.

Annotation on succession tax in state or country in which personal property (or evidence thereof) belonging to the estate of a nonresident decedent is found is appended to the report of this case in 42 A.L.R. 372.

Succession taxes — *on foreign real estate converted into personalty.* That the state of testator's domicil may assess a succession tax upon the value of real estate located in another state, which was by the will converted into personalty for purposes of distribution, is held in Land Title & T. Co. v. South Carolina Tax Commission, 131 S. C. 192, 126 S. E. 189, which is followed in 42 A.L.R. 417, by annotation on the doctrine of equitable conversion as affecting a succession tax as to real property situated in a state or country other than the domicil.

Succession taxes — *power of state over foreign property.* That a state cannot impose a tax upon the transfer, on the death of the owner, of property having an actual situs in other states, although the owner was domiciled within its limits, is held in Frick v. Pennsylvania, 268 U. S. 473, 69 L. ed. 1058, 45 Sup. Ct. Rep. 603, which is followed in 42 A.L.R. 316, by annotation on succession tax at domicil of decedent as to personal property located elsewhere, or the obligations of nonresidents or foreign corporations.

Telegraphs — *contract by telegraph — binding effect.* One whose price quoted by telegram is accepted by an intending purchaser is held not bound to deliver, if the price is misquoted in the message through negligent change by the company, in the South Carolina case of Harper v. Western U. Teleg. Co. 130 S. E. 119, which is followed in 42 A.L.R. 286, by annotation on telegraph company as agent of sender so as to bind him as against addressee by mistake in transmitting message.

Trespass — *firing gun over property.* One is held to be guilty of trespass who fires a shotgun over the premises, dwelling, and cattle of another, although he is not at the time standing upon such person's property, in the Montana case of Herrin v. Sutherland, 241 Pac. 328, annotated in 42 A.L.R. 937, on trespass by acts above the surface.

Vendor and purchaser — *liability for injuries due to defects.* A vendor is held not to be liable in damages to the vendee or members of his family for injuries caused by defects in the premises, in Smith v. Tucker, 151 Tenn. 347, 270 S. W. 66, annotated in 41 A.L.R. 830.

Wills — *provision against contest — to whom applicable.* A provision in a will forfeiting the interest of anyone who opposes its probate is held not to apply to one who acts in good faith upon probable cause, in the Wisconsin case of Re Keenan, 205 N. W. 1001, annotated in 42 A.L.R. 836.

Recent British Cases

Charities — *soldiers — validity of trust.* That a bequest to "trustees for the time being of the 'Reparation Fund' or other similar fund for the benefit of the New South Wales Returned Soldiers," created a valid charitable trust was decided by the Privy Council in Verge v. Somerville [1924] A. C. 496, 13 B. R. C. —, the court holding that a public trust was created for the benefit of a class of the community, and also that a valid charitable trust may exist, although in its administration the benefit is not confined by the donor to the poor to the exclusion of the rich. The report of this case in 13 B. R. C. —, is accompanied by annotation covering the question of the validity as a charitable trust of gifts or bequests for the benefit of soldiers.

Insurance — *burglary and theft — construction of exceptions.* The House of Lords in London & L. F. Ins. Co. v. Bolands [1924] A. C. 836, 13 B. R. C. —, decided that an exception in a policy undertaking to indemnify against loss by burglary, housebreaking, and theft, providing that the insurance did not cover loss directly or indirectly caused by or happening through or in consequence of invasions, hostilities, acts of foreign enemy, riots, strikes, etc., was not confined to a case where the theft was facilitated by an antecedent or simultaneous riot, but included a case where the theft itself, in the manner in which it was conducted, constituted a riot at law, and a recovery in such a case was accordingly denied. The report of this case in 13 B. R. C. — is accompanied by annotation on the construction of exceptions relating to causes of loss in burglary and theft insurance policies.

Landlord and tenant — *lease — option to purchase.* The House of Lords, in Batchelor v. Murphy [1926] A. C. 63, 13 B. R. C. —, recently decided that under an agreement between the executor of a lessor, the lessee, and one who desired to acquire the residue of the term of a lease that the lessee should be released from liability, the lease surrendered, and a "new lease" executed for the balance of the term "on the same terms and conditions in all respects" as the original lease, it being held that the phrase "new lease" was referable to the document and not to the agreement creating the relation of landlord and tenant, and that hence the new tenant was entitled to a lease containing the same option to purchase as was contained in the original lease. The annotation to this case in 13 B. R. C. — covers the question of the right to exercise an option to purchase in a lease which is surrendered and another executed, or agreed upon.

Waters — *accretions — artificial conditions.* That the general law of accretion applies to a gradual and imperceptible accretion to land abutting upon the foreshore, brought about by the operations of nature, even though it has been unintentionally assisted by, or would not have taken place without, the erection of groynes for the purpose of protecting the shore from erosion, was held in Brighton & Hove General Gas Co. v. Hove Bungalows [1924] 1 Ch. 372, which is reported in 13 B. R. C. —, together with annotation covering the application of the law of accretion where artificial conditions assist formation.

A.L.R. Annotations in Volumes 41 and 42 Include These Subjects:

Action — Judgment for rent for particular period as bar to action for rent for subsequent period. 42 A.L.R. 128.

Automobiles — Fact that driver of automobile is blinded by glare of light as affecting liability for automobile accident. 41 A.L.R. 1040.

Automobiles — Personal care required of one riding in automobile driven by another as affecting his right to recover against third persons. 41 A.L.R. 767.

Bailment — Duty and liability of garage keeper to owner of cars. 42 A.L.R. 135.

Banks — Title to commercial paper deposited by the customer of a bank to his account. 42 A.L.R. 492

Bills and notes — Renewal of bill or note as precluding defenses available against the original. 41 A.L.R. 963.

Bills and notes — Validity and effect of note payable to maker without words of negotiability. 42 A.L.R. 1067.

Bonds — Renewal of bond insuring fidelity of officer or employee as affecting limit of indemnity. 42 A.L.R. 834.

Carriers — Liability of carrier for injury to passenger by car door. 41 A.L.R. 1089.

Carriers — Liability of carrier to passenger for assault by third person. 42 A.L.R. 168.

Carriers — One operating bus or stage as common carrier. 42 A.L.R. 853.

Carriers — Running past stop signal as wanton or wilful misconduct rendering railroad company liable for injury to trespasser. 41 A.L.R. 1354.

Charities — Liability of privately conducted charity for personal injuries. 42 A.L.R. 971.

Conflict of laws — Full faith and credit provision as affecting insurance contracts. 41 A.L.R. 1386.

Constitutional law — Constitutionality of regulations as to milk. 42 A.L.R. 556.

Constitutional law — Regulation of public accountants. 42 A.L.R. 777.

Continuance — Right to continuance to procure witness to alibi. 41 A.L.R. 1530.

Contracts — Duty of mortgagee, or one holding title as security, to protect the interests of third persons in respect to insurance. 41 A.L.R. 1283.

Contracts — Validity of contract to testify. 41 A.L.R. 1322.

Corporations — Unwarranted payment of dividends as ground for ousting foreign corporation. 41 A.L.R. 997.

Damages — Measure of damages in action for personal injuries commenced by the deceased in his lifetime and revived by his personal representative. 42 A.L.R. 187.

Damages — Recovery by commission salesmen given exclusive territory where employer breaches contract of employment. 41 A.L.R. 1175.

Deeds — Rights of parties to a timber contract upon failure of purchaser to remove timber within time fixed or within a reasonable time. 42 A.L.R. 641.

Divorce — Alimony as affected by remarriage. 42 A.L.R. 602.

Easements — Physical conditions which will charge purchaser of servient estate with notice of easement. 41 A.L.R. 1442.

Electricity — Duty to guard against danger to children by electric wires. 41 A.L.R. 1337.

Evidence — Admissibility of evidence obtained by illegal search and seizure. 41 A.L.R. 1145.

Evidence — Liability of one responsible for original libel or slander for its repetition by third persons. 41 A.L.R. 1191.

Evidence — May conviction of perjury rest upon circumstantial evidence. 42 A.L.R. 1063.

Evidence — Personal liability of one who signs or indorses without qualification commercial paper of corporation. 42 A.L.R. 1075.

Fraudulent conveyances — Applicability of Bulk Sales Law to manufacturers or packers. 41 A.L.R. 1214.

Your Courts Have Made R. C. L. Part of Your Local Law

Fraudulent conveyances — Conveyance pursuant to antenuptial agreement as fraud on creditors. 41 A.L.R. 1163.

Fraudulent conveyances — Right of creditor to judgment for value of goods against transferee in violation of Bulk Sales Law. 41 A.L.R. 1473.

Highways — Public "comfort stations." 42 A.L.R. 891.

Highways — Public regulation or authorization of gas-filling stations. 42 A.L.R. 978.

Highways — Reversion of title upon abandonment or vacation of public street or highway. 42 A.L.R. 236.

Infants — Stipulations in pass as binding on infant. 41 A.L.R. 1099.

Insurance — Accident: When insured deemed to be totally and continuously unable to transact all business duties. 41 A.L.R. 1376.

Insurance — Death or injury resulting from insured's voluntary act as caused by accident or accidental means. 42 A.L.R. 243.

Insurance — Incontestable clause in life or accident policy as affected by statute invalidating agreements fixing period of limitation different from that prescribed by the Statute of Limitations. 41 A.L.R. 1105.

Insurance — Statute precluding defense of suicide as applied to accident insurance. 41 A.L.R. 1523.

Judgment — Decree for alimony in instalments as within full faith and credit provision. 41 A.L.R. 1419.

Lateral support — Implied easement upon severance of tract where building is near or encroaches upon the dividing line. 41 A.L.R. 1210.

Levy — Mortgagor's statutory right to redeem or his right to possession after foreclosure as subject of levy and seizure by creditors. 42 A.L.R. 884.

Libel — Relevancy of matter contained in pleading as affecting privilege within law of libel. 42 A.L.R. 878.

Life tenants — Rights as between life beneficiaries and remaindermen in corporate dividends or distributions during the life interest. 42 A.L.R. 448.

Limitation of actions — Part payment or acknowledgment of indebtedness on bond or note as tolling statute on mortgage securing same. 41 A.L.R. 822.

Lottery — Scheme by which award depends upon votes as a lottery. 41 A.L.R. 1484.

Mortgage — Remedies in respect of mortgage on real property in another state or the debt secured thereby. 42 A.L.R. 470.

Mortgage — Who must bear loss due to destruction or deterioration of real property pending contract for its conveyance. 41 A.L.R. 1272.

Motor busses — Validity of regulation against solicitation in street for patronage of taxicabs, etc. 42 A.L.R. 282.

Municipal corporations — Liability of municipal corporation for injuries due to condition in park. 42 A.L.R. 263.

Municipal corporations — Validity of contract exempting municipality from liability for negligence. 41 A.L.R. 1358.

Negligence — Status of and duty to one who enters on another's premises by mistake. 41 A.L.R. 1430.

Partnership — Remedy where additional assets or liabilities are discovered after settlement of partnership affairs as at law or in equity. 41 A.L.R. 1454.

Principal and surety — Right of debtor who pays creditor to control application of payments made by latter to his credit or with proceeds of original payment. 41 A.L.R. 1297.

Public service commission — Regulating issuance of securities by public utilities through public service commissions. 41 A.L.R. 889.

Robbery — Retaking of money lost at gambling as robbery or larceny. 42 A.L.R. 741.

Schools — Personal liability of school authorities for dismissal or suspension of pupil. 42 A.L.R. 763.

Search and seizure — Sufficiency of showing of probable cause for search warrant for intoxicating liquor. 41 A.L.R. 1539.

Succession tax — Succession tax as to stock in foreign corporation belonging to estate of nonresident. 42 A.L.R. 413.

Succession tax — When transfer deemed to be one in contemplation of death within the meaning of the Inheritance Tax Law. 41 A.L.R. 989.

Taxes — Constitutionality of taxing statute which refuses to corporation deduction of credits allowed to individual taxpayer. 42 A.L.R. 1049.

Trusts — Rights of parties under oral agreement to buy land or bid it in at judicial sale for another. 42 A.L.R. 10.

Wills — Manner of signing as affecting sufficiency of signature of testator. 42 A.L.R. 954.

Witnesses — What constitutes claim or demand against estate within statute disqualifying witness. 41 A.L.R. 1044.

New Books and Recent Articles

PINKERTON & MILLSAPS, INHERITANCE AND ESTATE TAXES, 1 volume $12.00
WOOD, PUBLIC UTILITIES, 1 volume 10.00
LEWIS & SPELLING, THE LAW OF INJUNCTIONS, 1 volume 10.00
LEWIS, PREPARATION AND CONSTRUCTION OF WILLS, 1 volume 15.00
LAW FOR THE HOME OWNER. BY JOHN B. GREEN (THE MACMILLAN CO., NEW YORK) $2.50

This attractive and well written volume is from the pen of a legal veteran who has been for fifty years a member of the New York Bar. After practising his profession for nearly a quarter of a century in New York city, he became a member of the editorial staff of the Lawyers Co-operative Publishing Company, and numerous annotations in the L.R.A. and A.L.R. were prepared by him. Mr. Green is a forcible and cogent writer whose long experience enables him to discuss legal principles with precision and clearness. An earlier volume by him, on "Law for the American Farmer," met with a gratifying sale.

"LAW FOR THE HOME OWNER" is not intended to obviate the necessity for legal assistance, but to convey information that will be of material aid to one intending to buy or build a house. It deals with the home site, negotiating the purchase, the sale and purchase contract, the scrutiny of the title, passing the title, deeds and covenants, mortgages, planning the home and preparing the site, building the dwelling, mechanics' liens, meeting the cost, legal relations of adjoining landowners, restrictions on the use of real property, neighborhood nuisances, home owners' rights and duties respecting adjoining highways, municipal service to citizens, rights, powers and duties of public service corporations, taxes and assessments, insuring the home, collecting insurance losses, etc. These subjects, in their relations to the rights and duties of the home owner, do not seem to have been treated in recent years or in an untechnical way.

The text is supported by citations of authorities. In addition to an index the book contains a glossary of legal words and phrases used in the text. Acknowledgment is made to John Paul Trotter, LL.B., of the Charlotte, N. C. Bar, for valued revisory aid. The work contains 400 pages and its typography is excellent.

"THE FUNCTION OF UNIFORM STATE LAWS" is discussed by Judge Sumner Kenner in the Indiana Law Journal for March, 1926. He states that "uniformity in all state laws would be neither practical nor desirable; local conditions in each state call for local laws. When we advocate uniform legislation, we refer only to laws of general concern."

Judge Kenner suggests that "uniformity of state laws may be a formidable defense against encroachment of the Federal power, and unless the states do adopt uniformity on subjects which affect the whole Union, there will always be a demand that the Federal power take up the subject and pass laws regulating the same."

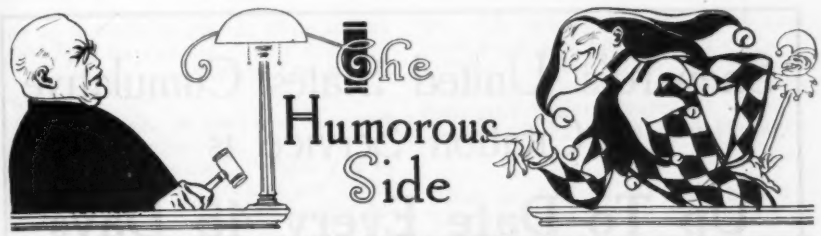
He believes that much of the complaint of the law's delay and uncertainty is due "to the diversity of the law, which necessarily leads to litigation and useless expense and delay." He urges

that "we should devest our minds of prejudice against uniform laws merely on the ground that they will in some respect change the laws of our state. Any measure recommended by the National Conference always deserves earnest consideration in every state."

Will the law uphold a contract between a workman and his labor union whereby he agrees for a period of two years not to work in a nonunion shop? This question is ably discussed by Hon. Horace M. Stern, President Judge of the Court of Common Pleas No. 2, Philadelphia County, Pa., in the April, 1926, University of Pennsylvania Law Review, under the title "A New Legal Problem in the Relations of Capital and Labor."

The subject of "JURISDICTION OVER NONRESIDENT MOTORISTS" is treated by Austin W. Scott, in the Harvard Law Review for March, 1926. He concludes: "It would seem that a state may subject a nonresident doing acts within the state, involving danger to life or property, to the jurisdiction of the courts of the state as to causes of action arising out of those acts. In particular, it would seem that a state may subject a nonresident operating an automobile within the state to the jurisdiction of the courts of the state as to causes of action arising out of the operation of the automobile."

In the Illinois Law Review for February, 1926, Newman F. Baker discusses "MUNICIPAL AESTHETICS AND THE LAW." He predicts "that the time is not distant when the courts of our country will hold that reasonable legislation affecting the property of the individual will be considered constitutional if passed to promote the well-being of the people by making their surroundings more attractive, their lot more contented, and by inspiring a greater degree of civic pride. The decisions denying that the suppression of ugliness is a necessity do not settle the question for all time. As soon as the average person may be thought to have developed an appreciation of the beautiful the courts will no doubt sanction legislation for aesthetic purposes."



His Inference. It is related that when a young man, who was seeking the hand of a girl in marriage, popped the question to her, she replied, "You must go to father." The disconsolate young man reeled off the following rhyme:

"She knew that I knew that her
father was dead;
She knew that I knew what a
life he had led;
She knew that I knew what she
meant when she said,
'Go to father.'"

Fifty-Fifty. Judge (to Italian seeking citizenship) — "Don't know how many stars there are in the American flag? Well, you're not very smart, are you?"

Italian—"Well, judge, maybe you ain't so smart, either; tell me—how many banan' in one bunch?"

—Boston Transcript.

An Efficient Druggist. "What did you put in this prescription?"

"That I can tell only to the doctor," said the druggist.

"The doctor wants to know. Seems I gave you a Chinese laundry ticket and you filled that."

—Peabody Star.

Business as Usual. Lord Darling, a celebrated English barrister, was addressing the court when he became so engrossed in his case that he completely overlooked the fact that it was past time for adjournment. The court asked: "Mr. Darling, have you noticed the position of the hands of the clock?"

Darling: "Yes, sir; but with respect, I see nothing to cause anxiety. They seem to me to be where they usually are at this time of the day."

All Alike. "That old castle hasn't been touched for three hundred years."

"H'm, just like my landlord; he won't do anything, either."

—The Building Owner and Manager.

Unfixed. Lawyer (examining prospective juror in criminal case) —"Mr. Juror, have you any fixed opinion as to the guilt or innocence of the accused?"

Juror (emphatically)—"Naw, I ain't got no doubt but the guy's guilty, but they ain't nobody fixed me." —Judge.

Not Guilty but Puzzled. Judge—"The jury having acquitted you of the charge of bigamy, you are free to leave the court and go home."

Prisoner—"Thank you, your Honor, but I want to be on the safe side—which home?"

—Boston Transcript.

Machine Sown. "Dog-gone it, judge," said the old farmer as he fished out his purse and prepared to pay his son's fine for speeding; "it's got so nowadays that a young feller can't even sow his wild oats without a machine."

—Boston Transcript.

Co-operation. "Pity the pore blind, mister."

"Go on! You're no more blind than I am."

"No, mister, it's me pal dat's blind. But he's too proud ter beg, so I has

ter do it while he stands at de corner an' keeps an eye out fer de cops."
—Boston Transcript.

Some Nerve. A hardened motorist ran down a pedestrian.
"Hey," he shouted, "while you're under there, take a look at my brake rods." —The Luptonite.

Discreet. A burly new chief of police, introducing himself to his subordinates, boasted, "I can lick anybody on my force."
A still burlier officer stepped forward and said, "You can't lick me."
The chief eyed him for a moment, and then waved him aside: "You are no longer on my force."
—The Outlook.

Fair Play. Judge—"You told me just now that Pat struck Mike and now you say it was Mike that struck Pat."
Witness—"Well, yer Honor, as there are two sides to a question, it is only fair, isn't it, to allow as many to an answer?" —Boston Transcript.

Onto his Job. Store detective—I just ordered a woman shoplifter out of the store.
Manager—Did she take umbrage?
Detective—She took nothing. I was too quick for her.

Fast Work. "Talk about fast work," said an insurance agent, "a man insured by my company fell off the dock the other day and our adjuster was on the spot when they pulled him ashore."
"That's nothing," said the other agent. "A man insured by my company fell off the twenty-second floor of our home office building and his claim in full was handed out to him as he went by the mezzanine."

Just A Few Words. "Just think of it!" exclaimed Flora the romantic. "A few words mumbled over your head and you're married."
"Yes," agreed Dora the cynical. "And a few words mumbled in your sleep and you're divorced."
—Building Owner and Manager.

Not as Tall as He Was Short.—"Can you give a good description of your absconding cashier?" suavely asked the detective.
"We-ell," answered the hotel proprietor, "I believe he's about 5 feet 5 inches tall and about $7,000 short."
—American Legion Weekly.

Fooled the Old Man. Father-in-law—Didn't you tell me when you married my daughter that you were worth $100,000?
Son-in-law—No, sir. I said I could lay my hands on $100,000, but had I done so I'd be in jail now.
—Boston Transcript.

Keeping it Dark. In the distant days before gasolene became the National perfume, Jim. W—— was a skilful speculator in horseflesh, doing business in the Down East town of Farmington, Maine. One spring he sold a seemingly sound specimen to a Boston visitor, who departed with what he thought was a prize.

In the fall the customer called on Jim and remarked with some displeasure:

"Jim, that nag you sold me is a bolter and a cribber. You can't hold him when he gets the bit in his teeth and I've had to plate his stall with sheet iron."

"I knowed it," replied Jim.

"Well, you never told me."

"No," answered Jim softly: "You see, the feller I had him of didn't tell me either. So I thought it was a secret." —The Outlook.

Pat's Economy. The Scotch aren't the only saving ones. An Irishman said to the clerk at the marriage license office, "I haven't used that license ye gave me three weeks ago."

"Well?"

"An' I ax ye to take out the name of Mary Flynn and put in Katie O'Connor in place of it."

The clerk explained that this would be impossible; nothing but a new license would be in order.

"Be the powers, then," said Pat, "I'm in more trouble than iver. I only courted Katie to save me money on the license."

Try This. Motor Cop (after hard chase)—"Why didn't you stop when I shouted back there?"

Driver (with only $5, but presence of mind)—"I thought you just said, 'Good morning, Senator.'"

Cop—"Well, you see, Senator, I wanted to warn you about driving fast through the next township."

—Middleburg Blue Baboon.

Ice Holes of Yesteryear. The prosecuting attorney for a county along the Wabash river in Indiana was endeavoring to convict a prisoner for "gigging" (spearing fish through holes in the ice).

One of the witnesses was a lank, silent Hoosier who was "agin the government." In fact, his farm lay along the river, and he himself was very fond of fishing.

"Mr. Smith," asked the attorney, "did you see the holes in the ice?"

"I did," Mr. Smith answered.

"Did they appear to be fresh holes?" continued the attorney.

"Well, I dunno," replied the farmer. "I couldn't just tell whether they were this year's holes or last year's."

—Everybody's Magazine.

A Useful Phantom. Prospective Tenant—I like the house very much but I hear it is haunted.

Landlord—My dear madam, I attend to that personally. The ghost only appears to tenants who fail to pay their rent and refuse to move out.

Safe From Arrest. The village doctor was an enthusiastic motorist and the possessor of a high-powered car which he desired to sell. One day he took a prospective purchaser for a run to demonstrate what the car could do, and in a short time they were whirling along at a furious rate.

"I say, look out," cautioned his passenger, "or you'll get run in! You're doing over 60 miles an hour."

"Don't worry about that," chuckled the doctor. "I've got the village cop in bed with rheumatics."

—Boston Transcript.

Guilty. Counsel—"Now, sir, tell me, are you well acquainted with the prisoner?"

Witness—"I've known him for twenty years."

Counsel—"Have you ever known him to be a disturber of the public peace?"

Witness—"Well—er—he used to belong to a band."

—Philadelphia Inquirer.

Out for Damages. Letter said to have been received by a lawyer: "Dear Sir—My boy got struck by an automobile, number 48,726B. If the owner is rich, sue him at once. The boy wasn't bruised any, but on your notifying me that you have brought suit, I will hit him in two or three places with a hammer. Yours truly, etc." —Boston Transcript.

Profane Poll. When justice threw up its hands as a signal of failure in court recently, Polly, a parrot, decided who owned her.

"I traded a pair of pants to a sailor for her," protested the defendant.

"She flew out of my window into his house," declared the plaintiff. "I know her because she has a red spot on her tail."

"All parrots, all respectable parrots, have red spots on their tails," explained the magistrate, "and—"

"My parrot swears," interrupted the defendant.

"Does yours?" the magistrate asked the plaintiff.

"Indeed she does not; certainly not. She—"

Then Polly decided the issue.

"The hell I don't," she screamed.

And the defendant took her back to her cage.

An Expert Witness. "You swear that this man is no chicken stealer?" demanded the judge.

"Yessur," replied Rastus Rashley. "Da's whut Ah said, suh."

"What do you know about the facts in this case?"

"Ah isn' s'posed to know nuffin' 'bout de facks in de case, suh. Ah is an expert witness foh de defense."

A TALE OF WEEHAWKEN

"The observant traveler," observes Justice Minturn in Re Kirk, — N. J. L. —, 130 Atl. 569, "leaving the dizzy cliffs of Manhattan, in his progress up the Rhine of America, will inevitably have obtruded upon his expectant vision the bold outline of a precipitous cliff of basaltic rock of glacial origin, which Gibraltar-like projects its giant outlines into the rolling waters of the majestic Hudson, guarding as it were the erstwhile fancied entrance of the visionary pioneer to the fabulous wealth of the Indies.

"Inquiry will elicit the information that this monumental projection was intended by a natural prohistoric cataclysm to mark the gateway of the famous Palisades, and that stretched at its feet in bucolic simplicity are the remnants of the beautiful emerald slopes, termed by the primeval natives 'awiehawk,' and by the modern residents 'Weehawken.' Of these scenes the poet Fitz-Greene Halleck in ravishing transport wrote:

> 'When life is old, and many a scene forgot,
> 'The heart will hold its memory of this.' . . .

"However, like all townships worthy of the name, it prides itself upon the possession of a town hall, which, like the Acropolis at Athens, of the Forum at Rome, is the Deus ex machina for all municipal lucubration, the font of all public inspiration, and the Mecca of all political ambition. It also enjoys the spiritual distinction of the early church, in that it is built upon a rock, from which adamantine tenure neither the iconoclastic hand of time nor the progressive evolutionary arguments of municipal ambition have been able to dislodge it, but, enshrouded in an atmosphere of modern mysticism, retirement, and modesty, it stands, like the rock of ages, unmoved and immovable.

Your Courts Have Made R. C. L. Part of Your Local Law

"Upon stated evenings, amid the quietude of an environment which makes for serious reflection and dignified procedure, the business of the township was transacted without ostentation, and yet with becoming dignity, decorum and dispatch, until the memorable night of June 3, 1925, when in the quietude of their homes the confiding inhabitants were startled, astounded, humiliated, and shocked to learn that one of their honored representatives, in the solemn conclave of a public session, had been called a 'bootlegger' and a 'souphead.' Such a flagrant contempt of the dignity of the town and its representatives was properly met by a proceeding under § 3 of the Disorderly Act (2 Comp. Stat. 1910, p. 1927) against this defendant, and in due time he was found guilty before the recorder. . . .

It was contended by the defendant that these "utterances were terms of compliment and distinction, rather than offensive epithets, so as to be comprehended within the term 'disorderly conduct.'" But the court declared:

When this defendant publicly charged a member of the council in a public place with being a bootlegger, he charged him in legal effect with being a criminal, and thereby subjected himself to the charge levied against him in this complaint. . . .

"When souphouses existed as a social safety valve, assuming the status in modern life occupied by the Roman 'panem et circenses,' the master mind controlling the institution might well be termed a 'souphead.' . . .

"Obviously therefore, the term cannot be deemed either undignified or offensive, and the defendant, whether conscious of his complimentary ebullition or not, cannot be adjudged guilty of disorderly conduct.

"The conviction, however, must be sustained upon the ground first stated."

(*Continued from Page 74*)
part in movements designed to place the practice of law on a higher plane and to better the condition of women in industry, winning the respect of friends and foes. During the preceding administration, a California woman had held one of the seven positions in the Department of Justice as assistant attorney general and President Harding came to the conclusion that the women should also be represented in the appointments made by his administration. In casting about for such an appointee, Mrs. Willebrandt's name led all the rest and she was invited to Washington for consultation in connection with the appointment.

It is related that she requested the attorney general to do her the favor of not appointing her to the position unless he could give her as much responsibility as he would bestow on a man in the same position. She was appointed and assigned to the division of the Department of Justice in immediate charge of the litigation and prosecutions arising out of the enforcement of the Prohibition Law where she has continued to serve. Her work consists principally of general supervision over the various United States Attorneys and their assistants in the conduct of prohibition cases in the district and circuit courts of appeal of the United States and in the personal argument of many of such cases reaching the Supreme Court of the United States, and it is needless to inform any one familiar with the reports of the United States Courts that the number of prohibition cases exceeds that of any other class of cases now coming before these courts.

Acknowledgment is due to the Saturday Evening Post for permission to use biographical data in their sketch of Mrs. Willebrandt, published September 27, 1924.

Linthicum Foundation Prize

The Faculty of Law of Northwestern University, administering the income of the Charles C. Linthicum Foundation, announces that (A) The sum of $1,000 and a suitable medal will be awarded to the author of the best essay or monograph, submitted by March 1, 1927, on the Law of Radio Communication, the scope to include the aspects of the subject as a problem of international law and as a problem of legislation in the United States.

(B) The sum of $1,000 and a suitable medal will be awarded to the author of the best essay or monograph, submitted by March 1, 1928, on the subject known as Scientific Property, i. e., the granting of a quasi patent right to the maker of a scientific discovery.

The award will be made by vote of the Faculty of Law. To be eligible for the award the author must be at the date of submission a member of the bar or a student registered in a law school in the United States or Canada.